

REMARKS/ARGUMENTS

Upon entry of the present amendment, claims 1-20 will be pending. Reconsideration of the Office Action of December 12, 2003 is respectfully requested.

Rejections under 35 U.S.C. § 103

The Examiner again rejected claims 1, 2, 4, 6-8, 10 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Eder (U.S. Patent No. 5,311,542) in view of Agee (U.S. Patent No. 6,128,276). The Examiner asserted that Eder teaches a frequency hopping spread spectrum system where messages are broken into 20-bit segments that are transmitted over a different carrier signals. The Examiner admitted that Eder fails to teach that the preamble and/or data message are transmitted a predetermined number of times. Regarding this deficiency, the Examiner asserted that Agee teaches supplying the receiver with several duplicates of the original signal. The Examiner concluded it would have been obvious to one of ordinary skill in the art to transmit several duplicates of the preamble and/or the data message in the frequency hopping system of Eder as taught by Agee. Applicants respectfully traverse.

Applicants respectfully traverse and submit that no proper combination of the references of record would yield Applicants unique invention, as recited in the independent claims of the present invention. For the Examiner to make a rejection based on obviousness, 35 U.S.C. § 103(a) and MPEP § 2141 require adherence to the following tenets of patent law: (A) The claimed invention must be considered as a whole; (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; (C) The references must be viewed without the benefit of impermissible

hindsight vision afforded by the claimed invention and (D) Reasonable expectation of success is the standard with which obviousness is determined.

To establish a prima facie obviousness, MPEP §2142 requires there must first be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references when combined must teach or suggest all the claim limitations. *The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure* (emphasis added).

As such, the MPEP prohibits the Examiner from picking and choosing features from references and combining them without a suggestion to do so. As noted by the Examiner, Eder teaches a spread spectrum combination system, but does not teach or suggest communicating the preamble and/or groups of data bytes the each comprise a subset of the data message over a predetermined sequence of data channels, as recited in the claims. There is no suggestion in Eder of transmitting messages multiple times. Here, there only suggestion of transmitting a message multiple times is from Applicants' own disclosure.

Further, even if the Examiner's assertions are correct (and Applicants do not believe they are), none of the references, alone or properly combined, teaches communicating groups of data bytes that each comprises a subset of the data message over the predetermined sequence of data channels where the number of bytes in each group is determined based on a number of channels and a number of times the data messages are to be transmitted.

Thus, there is no suggestion in the prior art cited by the Examiner to combine the references as the Examiner suggests. No proper combination of references teaches the subject matter of claims 1, 2, 4-8, 10 and 11. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection under 35 U.S.C. § 103(a).

The Examiner rejected claims 3 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Eder in view of Agee as applied to claims 1, 2, 4, 6-8, 10 and 11, and further in view of Propp et al. (U.S. Patent No. 5,944,842). Applicants respectfully traverse.

Without addressing the propriety of the Examiner's rejection of claims 3 and 9, Applicants note that claims 3 and 9 depend indirectly from independent claim 1. For the reasons noted above, Applicants believe claim 1 is allowable over the prior art of record. As such, claims 3 and 9 are likewise allowable in view of the additional features claims 3 and 9 recite in combination with those of claim 1 and their respective intermediate claims. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection under 35 U.S.C. § 103(a).

The Examiner rejected claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Eder in view of Agee, and further in view of Sanderford, Jr. (U.S. Patent No. 5,311,541). In addition to the assertions with respect to Eder and Agee, the Examiner asserted that Sanderford, Jr. teach a spread spectrum transceiver for use in remote power meter reading. Applicants respectfully traverse.

Without addressing the propriety of the Examiner's rejection of claim 12, Applicants note that claim 12 depends from independent claim 1. For the reasons noted above, Applicants believe claim 1 is allowable over the prior art of record. As such, claim 12 is likewise allowable in view of the additional features claim 12 recites in combination with

those of claim 1. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection under 35 U.S.C. § 103(a).

The Examiner rejected claims 13 and 15-20 under 35 U.S.C. § 103(a) as being unpatentable over Sanderford, Jr. in view Eder and Agee. The Examiner asserted that Sanderford, Jr. teach a transceiver of a frequency hopping spread spectrum system, but fails to teach (1) an IF amplifier, (2) communicating groups of data bytes that each comprise a subset of a data message over a predetermined sequence of data channels, and (3) a preamble and/or the data message are transmitted a predetermined number of time. The Examiner asserted that Eder remedies (1) and (2) and that Agee remedies (3) and that it would have been obvious to combine the teachings to improve reliability. Applicants respectfully traverse.

For the reasons noted above with respect to the rejection of claims 1, 2, 4, 6-8, 10 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Eder in view of Agee, Applicants submit that the combination of Sanderford, Jr., Eder and Agee fails to teach, or even suggest, Applicants' invention as recited in the claims. In particular, there is no teaching or suggestion of communicating groups of data bytes that each comprises a subset of the data message over the predetermined sequence of data channels where the number of bytes in each group is determined based on a number of channels and a number of times the data messages are to be transmitted. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection under 35 U.S.C. § 103(a).

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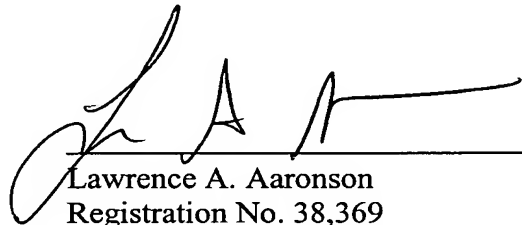
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CONCLUSION

It is respectfully submitted that each and every claim pending in this application patentably defines over the prior art of record. For all the foregoing reasons, Applicant respectfully submits that the instant application is in condition for allowance.

Reconsideration of the present Office Action and an early Notice of Allowance are respectfully requested.

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